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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|------------------------------------|-------------|----------------------|---------------------|------------------|
| 10/688,296 | 10/17/2003 | Jeffery R. Parker | GLOLP0108USI | 9192 |
| 23908 | 7590 | 07/13/2005 | EXAMINER | |
| RENNER OTTO BOISSELLE & SKLAR, LLP | | | SEMBER, THOMAS M | |
| 1621 EUCLID AVENUE | | | ART UNIT | |
| NINETEENTH FLOOR | | | PAPER NUMBER | |
| CLEVELAND, OH 44115 | | | 2875 | |

DATE MAILED: 07/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

H.A

| | | | |
|------------------------------|--------------------------------------|--------------------------------------|--|
| Office Action Summary | Application No. 10/688,296 | Applicant(s) PARKER ET AL. | |
| | Examiner Thomas M Sember | Art Unit 2875 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7, 9-14 and 16-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration..
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Terminal Disclaimer

1. The terminal disclaimer filed on 04/18/05 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of U.S. Patents 6,749,312, 6,755,547, 6,752,505, 6,712,481 and 5,66,712,481, has been reviewed and is accepted. The terminal disclaimer has been recorded.

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

1. Claims 1-3 and 5-18 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable claims 1-37 of copending application 10/729,113; and claims 1-34 of copending Application No. 10/784,527. Although the conflicting claims are not identical, they are not patentably distinct from each other because the applicant merely uses slightly different wording to

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claim the same inventions as the claims of the U.S. applications listed above. This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

2. Claims 1-18 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-23 of copending application No. 10/324,880; claims 1-16 of copending application 10/324,882; claims 1-27 of copending application 10/325,573 and claims 1-73 of copending Application No. 10/619,815. Although the conflicting claims are not identical, they are not patentably distinct from each other because the applicant merely uses slightly different wording to claim the same inventions as the claims of the U.S. applications listed above. This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 7 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Lengyel. Lengyel discloses an optical assembly comprising at least a light emitter, a pattern of individual deformities 18b of well defined shape that are projections or depressions on or in at least one side of the light emitter for controlling an output ray

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angle distribution of light emitted from at least one surface area of the light emitter to suit a particular application, the deformities being quite small in relation to a width and length of the light emitter, at least some of the deformities having two or more surfaces that come together to form a ridge having a total length that is quite small in relation to the width and length of the light emitter. As broadly claimed at least some of the deformities interlock (join together) other deformities.

Response to Arguments

5. Applicant's arguments with respect to claims 1, 7 and 9 have been considered but are moot in view of the new ground(s) of rejection. Since this case has not been allowed yet, the DP rejections based on copending applications have been maintained.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas M Sember whose telephone number is 571-272-2381. The examiner can normally be reached on M-F 8 A.M- 5.30 p.m. first Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on 703-305-4939. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Thomas M Sember
Primary Examiner
Art Unit 2875